

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

<b>AVERY MIGUEL PERRY, SR.,</b> <i>Plaintiff</i>	:	<b>CIVIL ACTION</b>
	:	
	:	
<b>v.</b>	:	<b>NO. 22-CV-1699</b>
	:	
<b>C.O. MEIR,</b> <i>Defendant</i>	:	
	:	

**O R D E R**

**AND NOW**, this 3<sup>rd</sup> day of June, 2022, upon consideration of Plaintiff Avery Miguel Perry, Sr.'s Amended Complaint, (ECF No. 16), it is hereby **ORDERED** that:

1. The Clerk of Court is **DIRECTED** to **TERMINATE** Chester County Prison as a party defendant to this case.
2. The following claims are **DISMISSED, with prejudice**, for failure to state a claim:
  - a. All official capacity claims against Defendant C.O. Mei; and
  - b. Perry's claims against C.O. Meir in his individual capacity for deliberate indifference to Perry's mental health needs.
3. The Clerk of Court is specially appointed to serve a written waiver request on Defendant C.O. Meir, pursuant to Federal Rule of Civil Procedure 4(d), to effect waiver of service, so that Perry may proceed on his remaining claim of excessive force. The waiver of service request shall be accompanied by a copy of the Amended Complaint, (ECF No. 16), along with a copy of this Order and accompanying Memorandum, and shall inform the Defendant of the consequences of compliance and failure to comply with the request. The request shall allow the Defendant at least 30 days from the date it is sent (60 days if addressed outside any judicial district of the United States) to return the signed waiver. If a signed waiver is not returned within the time limit given,

the Clerk of Court shall issue a summons and transmit the summons and a copy of the Amended Complaint, along with a copy of this Order and accompanying Memorandum, to the U.S. Marshals Service for immediate service.

4. All original pleadings and other papers submitted for consideration to the Court in this case are to be filed with the Clerk of Court. Copies of papers filed in this Court are to be served upon counsel for all other parties (or directly on any party acting *pro se*). Service may be made by mail. Proof that service has been made is provided by a certificate of service. The certificate of service should be filed in the case along with the original papers and should show the day and manner of service. An example of a certificate of service by mail follows:

“I, (name), do hereby certify that a true and correct copy of the foregoing (name of pleading or other paper) has been served upon (name(s) of person(s) served) by placing the same in the U.S. mail, properly addressed, this (day) of (month), (year).

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(Signature)”

5. Any request for court action shall be set forth in a motion, properly filed and served. The parties shall file all motions, including proof of service upon opposing parties, with the Clerk of Court. The Federal Rules of Civil Procedure and Local Rules are to be followed. Perry is specifically directed to comply with Local Civil Rule 7.1 and serve and file a proper response to all motions within fourteen (14) days. Failure to do so may result in dismissal.

6. Perry is specifically directed to comply with Local Rule 26.1(f) which provides that “[n]o motion or other application pursuant to the Federal Rules of Civil Procedure governing discovery or pursuant to this rule shall be made unless it contains a certification of counsel that the parties, after reasonable effort, are unable to resolve the dispute.” Perry shall attempt to resolve

any discovery disputes by contacting Defendants' counsel directly by telephone or through correspondence.

7. No direct communication is to take place with the United States District Judge or United States Magistrate Judge with regard to this case. All relevant information and papers are to be directed to the Clerk of Court.

8. In the event a summons is returned unexecuted, it is Perry's responsibility to ask the Clerk of Court to issue an alias summons and to provide the Clerk with the Defendant's correct address, so service can be made.

9. The parties should notify the Clerk's Office when there is an address change. Failure to do so could result in court orders or other information not being timely delivered, which could affect the parties' legal rights.

**BY THE COURT:**

/s/ Nitza I. Quiñones Alejandro

**NITZA I. QUIÑONES ALEJANDRO**

*Judge, United States District Court*